

REMARKS

The May 27, 2005 final Office Action regarding the above-identified application has been carefully considered, and the remarks that follow are presented in a bona fide effort to respond thereto and address all issues raised in that Action. Prompt favorable reconsideration of this amended application is respectfully requested.

The Examiner's allowance of claims 37-40 is noted with appreciation.

Claims 11-13 and 34-36 stand rejected under the second paragraph of 35 U.S.C. § 112 for alleged lack of clarity. The rejection is founded on an assertion that claims 11-13 and 34-36 are indefinite, because the preambles of the independent claims (11-13) refer to "using" ground penetrating radar but do not make clear whether or not GPR equipment is part of the claimed apparatus. The Examiner correctly recognized that the bodies of the independent claims do not specify that a GPR device, system or sensor is part of the apparatus. This rejection is again traversed. It is respectfully submitted that the pending versions of claims 11-13 and 34-36 are reasonably clear and concise and that the scope thereof would be readily understandable to person of skill in the art upon a mere reading of the claims.

Applicant and Applicant's representative appreciate the courtesy extended by Examiner Gregory in a telephone interview conducted on June 16, 2005. Although no agreement was reached, the indefiniteness rejection was discussed. In particular, it was pointed out in the interview that the allegedly indefinite preamble language regarding "using ground penetrating radar (GPR)" is identical to language appearing in claims of the patent issued from the parent application (USP 6,700,526).

For example, the preamble of present claim 11 is identical to the preamble of claim 11 of the Patent. The preamble of each of application claims 12 and 13 is identical to the preamble of

claim 1 of the Patent. The patent is presumed valid, which means that the language of the patent claims is presumed to be reasonably definite. It is respectfully submitted that this provides evidence in support of Applicant's position that the language in claims 11-13 and 34-36 of the present application meets the statutory requirement for definiteness.

Applicants submit that the reference to GPR only in the preamble of the claims clearly establishes that the GPR equipment is not itself necessarily part of any of the three types of the apparatus claimed. Each apparatus processes GPR data "collected from" at least one GPR sensor. Claims like these that use a "comprising" format are given an open-ended interpretation. As such, each of these claims covers any apparatus that includes the respectively recited processing elements, even if that apparatus includes other elements. The bodies of claims 11-13 specify different sets of elements of various apparatuses that use or process data from a GPR sensor. The intent in each independent claim was to recite an apparatus that used or processed GPR data, but not to specifically include the GPR radar device or sensor in recitations regarding the respective apparatus. This open-ended breadth is reasonably clear and concise.

For these reasons, it is respectfully submitted that the present form of claims 11-13 and of dependent claims 34-36 is sufficiently clear and definite to satisfy the statutory requirement. Since there is no other rejection of these claims, it is believed that claims 11-13 and 34-36 are in condition for allowance.

Claims 11-13 and 34-40 remain active in this application, all of which should be in condition for allowance. Accordingly, this case should now be ready to pass to issue; and a prompt favorable reconsideration of this matter is respectfully requested.

It is believed that this response addresses all issues raised in the May 27, 2005 Office Action. However, if any further issue should arise that may be addressed in an interview or an

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Examiner's amendment, it is requested that the Examiner telephone Applicant's representative at the number shown below.

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

A handwritten signature in black ink, appearing to read "Keith E. George". The signature is fluid and cursive, with the first name "Keith" being more prominent.

Keith E. George
Registration No. 34,111

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 KEG:apr
Facsimile: 202.756.8087
Date: June 16, 2005

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